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Statewide Fiscal Services Dept.
Expenditure Audit Section
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Post-Payment Audit of the Supreme Court of Texas



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EXECUTIVE SUMMARY

Audit scope

We audited a sample of the Supreme Court of Texas (Court) payroll, purchase, grants and travel transactions that processed through the Uniform Statewide Accounting System (USAS) and the Uniform Statewide Payroll/Personnel System (USPS) during the period beginning June 1, 2015, through May 31, 2016, to determine compliance with applicable state laws.

The Court receives appendices with the full report that includes a list of the identified errors. Copies of the appendices may be requested through a [Public Information Act](#) inquiry.

The audit provides a reasonable basis for the findings set forth in this report. The Court should implement the recommendations listed in the Detailed Findings of this report. It is the Court's responsibility to seek refunds for all overpayments unless it determines it is not cost effective to do so. If necessary, the Comptroller's office may take the actions set forth in Texas Government Code, Section 403.071(h), to ensure that the Court's documents comply in the future. The Court must ensure that the findings discussed in this report are resolved.

Texas law requires the Texas Comptroller of Public Accounts (Comptroller's office) to audit claims submitted for payment through the Comptroller's office. All payment transactions are subject to audit regardless of amount or materiality.

Payroll transactions and payroll deductions

Payroll transactions were audited for compliance with the General Appropriations Act (GAA), the [Texas Payroll/Personnel Resource](#) and other pertinent statutes.

The audit identified:

- Overpayment of salary.
- Incorrect longevity pay amount.

A limited sample of voluntary contributions was also audited.

- No issues were identified.

Purchase transactions

Purchase transactions were audited for compliance with the GAA, [eXpendit](#), the [State of Texas Procurement Manual](#) and other pertinent statutes.

The audit identified:

- Freight not on purchase order.
- Incorrect amount paid.
- Procurement process not used.

Travel transactions

Travel transactions were audited for compliance with the GAA, [Texttravel](#) and other pertinent statutes.

The audit identified:

- Incorrect processing of non-overnight meals.

Grant transactions

A limited review of the Court's transactions relating to grants was conducted as a part of our purchase sample. This review consisted of verifying that payments did not exceed authorized amounts. The review of these payments did not include an investigation of the Court's procedures for awarding grants or monitoring payments made to payees; therefore, no opinion is being offered on those procedures.

- No issues were identified.

Travel card transactions

Travel card transactions were audited for compliance with the GAA, [Texttravel](#) and other pertinent statutes.

The audit identified:

- Early check-in fee not payable.

Direct deposit authorization form

A review was conducted of the Court's procedures to comply with the federal mandate to properly identify and handle payments involving the movement of funds internationally.

The audit identified:

- Five instances where the vendor failed to indicate whether funds would be forwarded to a financial institution outside the United States.

Internal control structure

The Court's internal control structure was reviewed. The review was limited to obtaining an understanding of the Court's controls sufficient to plan the audit and did not include tests of control policies and procedures.

The audit identified:

- Four employees could pick up warrants from Comptroller's office and approve vouchers.
- Four employees could adjust payment instructions in Texas Identification Number System (TINS) and approve vouchers.
- Four employees could process and release payments through USAS.
- Two employees could process and release payrolls.

Fixed assets

The audit included a limited number of fixed assets acquired by the Court during the audit period. Their physical existence and use for state business was verified. All assets tested were in their intended location.

- No issues were identified.

Prior post-payment audit and current audit recurring findings

A prior post-payment audit of the Court's payroll, purchase and travel transactions was concluded on Aug. 13, 2013.

During the current audit, the following recurring findings were identified:

- Control weakness over expenditure processing.
- Improper processing of non-overnight meals.

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DETAILED FINDINGS — PAYROLL

Overpayment of Salary Amount

Finding

In our audit of payroll transactions, we identified that the Court paid one employee a greater amount than the salary authorized on the employee's Personnel Action Form (PAF). This error resulted in an overpayment of \$95.33 within the sample selected for the audit period.

According to the Court, they did not record the correct salary on the employee's PAF.

The schedule related to this finding is not included with this report due to confidentiality issues.

Recommendation/Requirement

The Court must review its controls and personnel records to ensure accuracy and completeness, as well as guarantee that its internal operating procedures include quality control measures that will detect and prevent any incorrect compensation to a state employee. See 34 Texas Administrative Code Section 5.40(b).

Court Response

The Court acknowledges that the employee's Personnel Action Form did show an incorrect salary. This employee was a law clerk and was paid the same salary as the other law clerks hired for the same term. All future documentation will be reviewed closely to ensure accuracy and detect any errors that may occur.

Incorrect Longevity Pay Amount

Finding

We identified one employee who was underpaid longevity pay. The underpayment was due to a lack of agency oversight. The Court failed to update the longevity amount in USPS. The total underpayment equals \$245.10 in longevity pay, of that amount, \$6.45 was identified within the audit sample.

Texas judges and justices are eligible for longevity pay if they meet certain requirements. The monthly amount of longevity pay for judges and justices is the product of 0.031 multiplied by the amount of the judge or justice's monthly state salary. For more information, see [Texas Payroll/Personnel Resource – Longevity Pay](#).

The Court received payroll schedules related to this finding during the audit. The schedule is not included with this report due to confidentiality issues.

Recommendation/Requirement

The Court must ensure that the judges and justices are being paid correct longevity pay based on their state salary. The Court must also ensure that its internal operating procedures include quality control measures to update longevity when the judges and justices' state salaries change. The Court should promptly update the employee's longevity pay and correct the underpayment through a supplemental payroll. See 34 Texas Administrative Code Section 5.40(c).

Court Response

The Court acknowledges this finding and will update its procedures to ensure errors of this nature do not occur in the future.

DETAILED FINDINGS — PURCHASE

Freight Not On Purchase Order

Finding

We identified one transaction where the Court paid freight charges that were not included on the original purchase order (PO) or the bid solicitation documentation. Freight charges not specifically identified on the original PO should not be paid by the Court. The Court stated that this was due to an oversight.

A purchase agreement or purchase order is a contract entered into by the state and a vendor. The Court may only pay the contracted amount shown on the purchase agreement. If freight charges are not included in the purchase agreement, the charges are not owed and should not be paid.

Recommendation/Requirement

The Court should document all freight terms on each PO. In situations where the final amount of freight cannot be determined, estimates may be used. In those instances, the Court should document the limit that may not be exceeded for any freight amount. If it is determined that the upper limit for a freight amount will be exceeded, the vendor should obtain approval for the higher amount. Any approvals for higher amounts should be documented prior to receiving the invoice.

Court Response

The Court acknowledges that this freight charge was not documented as a separate line item on the purchase order. Freight and shipping fees will be shown as an individual line item on all future purchase orders.

Incorrect Amount Paid

Finding

We identified one transaction where an incorrect amount was paid to the vendor. The Court paid an hourly rate greater than the rate agreed to on the PO. The Court stated that this was due to an oversight.

A PO is a contract entered into by the state and a vendor. The Court may only pay the contracted amount shown on the PO. If additional charges are not on the PO, the Court does not owe the charges and the charges should not be paid.

When the Court and a vendor agree to a certain rate or quantity, unless the vendor properly amends the PO to show additional consideration was provided, any amount above that rate or quantity may not be paid. In addition, any amendments must be completed prior to the vendor providing goods or services.

Recommendation/Requirement

The Court must properly review and compare invoices with contracts to ensure that payments do not exceed amounts authorized in the contract, and ensure amendments to the original contract are documented. The Court must request a reimbursement from the vendor unless it determines it is not cost effective to do so. A state agency is responsible for reviewing each purchase voucher for accuracy and completeness before the agency submits the voucher to the Comptroller's office for processing. See 34 Texas Administrative Code Sections 5.51(c)(1)(B), (c)(2),(c)(4), (e)(1)–(2).

Court Response

The Court acknowledges that the incorrect hourly rate on the purchase order was entered in error. A verbal quote was provided in the amount of \$80/hour. In the future, we will review all documents for accuracy and ensure the correct pricing is entered on the purchase order.

Procurement Process Not Used

We identified two transactions related to the same purchase that did not use the correct procurement process as required by the *State of Texas Procurement Manual*. The first of the two transactions was processed on a PO for \$15,493.91. The second transaction was for a deposit on rental space that was processed on the travel card for \$5,000. The second transaction was identified on a report outside of the sample. This transaction should have been made through the procurement process on a purchase document. The total of the two transactions for which the correct procurement process was not used is \$20,493.91. The following items were missing from the contract file:

- Proof that Centralized Master Bidders List (CMBL) vendors were solicited.
- Supporting bid documentation.

Finding — Missing CMBL Solicitation Documentation

We identified two transactions where the Court could not provide the documentation necessary to support its procurement process. The Court was unable to provide proof that CMBL vendors were solicited. The Court stated it was unaware that it must ensure all bids are tabulated and documentation related to the procurement process is retained.

The CMBL is a database of registered vendors who have provided contact information, as well as a list of the goods and services they offer. Vendors pay a nominal annual fee to receive notification of opportunities for solicited commodities and/or services through an invitation for bid, request for proposal, request for offer or request for qualifications. Unless exempted by law, the CMBL must be used for all procurements subject to statewide procurement authority. The CMBL must also be used to gather information for non-competitive procurement processes. Agencies must print the awarded vendor's CMBL profile showing the expiration date for file documentation. Proof that the CMBL system was checked prior to any award or contract renewal being made by the state of Texas government must be maintained. See Texas Government Code, Sections 2155.263 and 2155.264, and 34 Texas Administrative Code Section 20.107 (b)(c).

Recommendation/Requirement

All state agencies and institutions of higher education must use the CMBL for all purchases, including services for which competitive bidding or competitive sealed proposals are required. The Court must maintain evidence that the CMBL vendors were contacted and include it in the contract file, as well as the bid tabulation that supports the contracted vendor selection.

Court Response

The Court acknowledges that it did not use the CMBL system to solicit bids from vendors. Due to the specialized nature of the training and venue space requirements, the venue search was limited. Two other venues were identified and quotes were received. However, this documentation was not retained for the file. Going forward, with purchases of this type which exceed \$5,000, the Court will adhere to the proper procurement process and use the CMBL system to solicit bids.

Finding — Bid and Evaluation Criteria Not Followed

We identified one transaction where the Court did not have documentation to prove that it followed procurement procedures by obtaining bids from multiple vendors and was missing bid tabulations. The Court stated that they do not perform bid tabulations for conferences.

The bid or proposal solicitation document is the first official evidence to the vendor community that an ordering entity intends to procure a good or service. The solicitation document serves as the official instructions explaining the ordering entity's requirements and how the vendor(s) will be selected. The Court must include terms and conditions specific to the agency's solicitation, regardless of the type of solicitation document used. See 34 Texas Administrative Code Section 20.35 and the [State of Texas Procurement Manual](#), Section 2.7.

The Court must use the open market informal solicitation method for all contracted services between \$5,000 and \$25,000. Open Market Formal Solicitation is used for agency-administered open market purchases of services greater than \$25,000 and for commodities if delegated by Statewide Procurement Division (SPD) or through statutory authority specific to an agency. See [State of Texas Procurement Manual](#), Section 2.7.

Not obtaining bids from multiple vendors increases the risk of the Court paying more than necessary for services. This could also result in a more qualified vendor not being used.

Recommendation/Requirement

The Court must obtain bids from qualified vendors for all services exceeding \$5,000. It must ensure that all bids are tabulated and the documentation related to the procurement process is retained.

Court Response

The Court acknowledges that the procurement process must be followed when securing space for training and conference venues that exceed \$5,000. Two other venues were identified and quotes were received. However, this documentation was not retained for the file.

Going forward, with purchases of this type which exceed \$5,000, the Court will adhere to the proper procurement process and retain all solicitation documents.

DETAILED FINDINGS — TRAVEL

Incorrect Processing of Non-Overnight Meals

Finding

We identified one transaction where the employee reimbursement for meals was incorrectly processed for non-overnight travel. The employee was reimbursed for meals during non-overnight travel using a travel document instead of a payroll document. As a result, payroll taxes were not withheld for these transactions. The Court also reimbursed the employee for meals in excess of the allowable reimbursement rate for non-overnight travel. According to the Court, these errors were due to an oversight.

A state employee may be reimbursed for non-overnight meal expenses. If an employee on non-overnight travel receives reimbursement for meals, this amount would be considered income and must be reported on his or her W-2. See [Texttravel – Non-Overnight Travel](#). Processing the payment on a payroll document will accommodate withholding Federal Insurance Contribution Act (FICA) and federal income taxes. Also, non-overnight meal reimbursements may not exceed \$36 according to the General Appropriations Act, Article IX, Part 5, Section 5.05(b). See [Texttravel – Non-Overnight Travel](#), for current rates.

Recommendation/Requirement

The Court should strengthen its internal procedures to ensure non-overnight meal expenses are properly processed on a payroll document. The Court must also ensure that it does not reimburse employees for meals that exceed the Comptroller's office maximum rate for non-overnight meals. The Court should seek a refund for the transaction paid in excess of the allowable reimbursement rate, if it is cost effective to do so.

Court Response

In reference to Document 11607784, the Court acknowledges that the errors in processing and amount were due to oversight. The Court will be more diligent in processing non-overnight meal expenses to ensure these errors do not occur in the future.

DETAILED FINDINGS — TRAVEL CARD

Early Check-In Fee Not Payable

Finding

In a report outside of the sample, we identified one instance where the Court reimbursed an employee \$25 for a commercial airline early boarding fee. Early boarding fees are not payable unless a business need exists. The Court does not have an internal policy for paying these fees.

According to Texas Government Code, Section 660.007(a), a state agency shall minimize the amount of travel expenses paid or reimbursed by the agency. The agency shall ensure travel arrangement are cost effective considering all relevant circumstances.

Recommendation/Requirement

The Court must ensure that all travel expense claims are accurately reviewed for legality and accuracy prior to payment. The Court must obtain a reimbursement from the employee unless it determines it is not cost effective to do so.

Court Response

The Court acknowledges this finding and will ensure that the required documentation to justify the need of any expenses of this type in the future is maintained in order to comply with Texas Government Code, Section 660.007(a). Furthermore, the Court will include language in its travel policies and procedures requiring explanation for expenses of this type.

DETAILED FINDINGS — DIRECT DEPOSIT AUTHORIZATION FORM

Incomplete Direct Deposit Authorization Form

Finding

We conducted a review of the Court's procedures to comply with the federal mandate to properly identify and handle payments which involve moving funds internationally. Of the ten vendors selected and reviewed, five direct deposit forms on file were not properly completed. Without a properly completed form on file, the Court was unable to indicate whether state funds were forwarded to a financial institution outside the United States.

Due to federal requirements mandated by the Office of Foreign Assets Control, the National Automated Clearing House Association has adopted specific rules on the identification and processing of International Automated Clearing House transactions (IATs).

To avoid potential federal penalties, each state agency must:

- Be able to show due diligence in processing all direct deposit payments.
- Do its best to ensure direct deposit payments issued to accounts at U.S. financial institutions are not ultimately being transferred to financial institutions outside the United States.

According to the Court, failing to review the direct deposit forms was an oversight due to a lack of understanding of the federal requirement. During fieldwork, we requested the Court contact all five vendors to obtain properly completed forms.

Recommendation/Requirement

The Court must ensure that all payees that request payment by direct deposit submit a completed direct deposit form, with the IAT question answered. A direct deposit authorization form should not be processed if the IAT section is left blank or if the form is unsigned.

Court Response

The Court acknowledges this finding and will require the use of the updated form be used in the future.

DETAILED FINDINGS — INTERNAL CONTROL

Control Weakness Over Expenditure Processing

Finding

As part of our planning process for the post-payment audit, we reviewed certain limitations that the Court placed on its accounting staff's ability to process expenditures. We reviewed the Court's security in USAS, TINS and its voucher signature cards that were in effect on Nov. 8, 2016. We did not review or test any internal or compensating controls that the Court may have relating to USAS or TINS security or internal transaction approvals.

The Court has four employees who could process and release payments through USAS without oversight, adjust payment instructions in TINS and approve vouchers. In addition, one of the four employees could approve vouchers and also pick up warrants from the Comptroller's office. Two of the employees could also process and release payrolls. The Court makes every effort possible not to process documents without oversight; however, on occasion, it is necessary for an individual to process expenditures without oversight due to a limited number of staff.

To reduce risks to state funds, the Court should have controls over expenditure processing that segregate each accounting task to the greatest extent possible. Ideally, no individual should be able to enter or alter and then release payments or other accounting transactions within the statewide financial systems without another person's involvement.

We ran a report to see whether any of the Court's payment documents were processed through USAS during the audit because of the action of only one person; no issues were identified.

Recommendation/Requirement

The Court should segregate each task to the extent possible to ensure that no individual is able to process payments without oversight.

The Court should review the preventive and detective controls over expenditure processing discussed in [*USAS Accounting and Payment Control \(FPP B.005\)*](#), such as the Risky Document Report (DAFR9840) which identifies documents that the same user entered or altered and then released for processing.

Also, the Court should limit access of users who enter/change vouchers or release/approve batches in USAS to view-only access in TINS. An individual should not be able to create a vendor or change a vendor profile, create a payment, and approve the payment. The Court could limit the user's access by removing the user from the Warrant Pick-up List or by removing the ability to release/approve vouchers in USAS from the user.

Court Response

The Court acknowledges the referenced weakness and does not process documents without oversight. As stated in your finding, a report was run to see whether any of the Court's payment documents were processed because of the action of only one person and no issues were identified. Due to the small number of employees in the accounting office, it is necessary for four employees to have process and release authority to maintain the oversight procedure.